

The University of North Carolina Policies on Acquisition and Disposition of Real Property by Lease

Session Law 2007-322 authorized the Board of Governors of the University of North Carolina to authorize the constituent institutions and the General Administration to acquire real property by lease if the lease is for a term of not more than 10 years.

During its last session and at the request of the Board of Governors, the General Assembly in Session Law 2012-142 amended North Carolina General Statute Section 116-31.12 to give the Board of Governors of the University of North Carolina the authority to authorize the constituent institutions and the General Administration of the University of North Carolina to acquire and dispose of real property by lease if the lease is for a term of not more than 10 years.

The proposed changes to UNC Policy 600.1.3.1 and to UNC Policy 200.6 would make both policies consistent with G.S. 116-31.12 as rewritten.

It is recommended that the Committee on Budget and Finance adopt the proposed changes to Policies 600.1.3 and 200.6 to enable the utilization of the disposition of real property by lease flexibility as permitted by North Carolina General Statute Section 116-31.12.

If approved and pursuant to the Board of Governors' guidelines, it is further recommended that the policy be presented to the Board at its October 2012 meeting for final consideration.

Policy on Acquisition and Disposition of Real Property by Lease

I. Authority

N.C. Gen. Stat. § 116-31.12 (hereinafter G.S.) delegates to the Board of Governors of the University of North Carolina the authority to authorize the constituent institutions and the University of North Carolina General Administration to acquire and dispose of real property by lease if the lease is for a term of not more than ten (10) years. Further, the statute directs the Board of Governors to establish a policy by which this leasing authorization may be further delegated to the boards of trustees of the constituent institutions or to the President of the University of North Carolina.

II. Policy

- A. The Board of Governors may delegate to the President of the University of North Carolina authority consistent with G.S. 116-31.12 to acquire and dispose of real property by lease if the lease term is for a term of not more than 10 years. The President's authority may be exercised on behalf of General Administration, its affiliates or the constituent institutions in the President's discretion.
- B. Upon request by the Board of Trustees of a constituent institution and with the recommendation of the President, the Board of Governors may delegate to the Board of Trustees of a constituent institution authority consistent with G.S. 116-31.12 to acquire and dispose of real property by lease if the lease term is for a term of not more than 10 years.
- C. The Vice President for Finance, in consultation with General Counsel, shall establish the process by which a constituent institution may request delegated authority consistent with G.S. 116-31.12. The minimum criteria a constituent institution must meet to receive authorization from the Board of Governor's shall be:
 1. The constituent institution has performed a written, comprehensive self-assessment that demonstrates it has the administrative, technical, and support resources necessary to properly carry out the delegated authority.
 2. The chancellor has certified in writing that the constituent institution has the administrative, technical, and support resources necessary to properly carry out the delegated authority.
 3. The constituent institution has a properly constituted and active campus property review committee comprised of individuals with sufficient technical expertise, strategic perspective and executive authority to perform the duties required herein.
 4. The constituent institution has an individual on staff with substantial experience in managing commercial real estate transactions and the chancellor has designated that individual as the campus property officer.
 5. The constituent institution has appropriate and sufficient technical and professional staff with demonstrated capability in the development, evaluation and execution of commercial leasing transactions.
 6. An assessment team, assembled and led by the Vice President for Finance, has reviewed the constituent institution's self-assessment, has performed an on-site capabilities appraisal that confirms the institution's self-assessment, and has recommended delegation to the President.

- D. Upon recommendation of the President of the University of North Carolina, for good cause and consistent with G.S. 116-31.12, the Board of Governors may revoke or suspend the authority of a constituent institution or take other remedial action as the Board deems necessary and appropriate, pending a review of any reported noncompliance with this policy and the associated regulations. The Vice President for Finance, in consultation with the General Counsel, shall establish the process by which such reports shall be investigated and for the implementation of any revocation or suspension. Once authority has been revoked pursuant to this policy, all future lease transactions for the institution involved shall be completed in accordance with Chapter 146 of the General Statutes of North Carolina and any delegations issued in accordance therewith.

Delegation of Authority to the President

A. Pursuant to NCGS §116-11(13) and other North Carolina law as referenced herein, and notwithstanding *The Code* or any other Board of Governors policy,¹ the Board of Governors delegates the following authorities to the President of the University:

1) Personnel

a) Authority to appoint and set the salaries of Senior Academic and Administrative Officers (§300.1.1 and §600.3.4) and other employees exempt from the State Personnel Act (§300.2.1) serving within the UNC General Administration.

b) Authority to set salary ranges for Senior Academic and Administrative Officers of the constituent institutions of University (§600.3.4).

c) Authority to approve conferrals of tenure and to set salaries of faculty, Senior Academic and Administrative Officers, except the chancellors, and other employees exempt from the State Personnel Act at campuses that do not have Management Flexibility to Appoint and Fix Compensation as long as those salaries are within the established salary ranges and are not raises in excess of 15% and \$10,000 higher than the salary in effect at the end of the last fiscal year. (§§300.1.1 and 600.3.4; *Code* §602).

d) Authority to approve all actions relating to the administration of the Optional Retirement Program (G.S. §135-5.1) and the Phased Retirement Program (§300.7.2).

e) Authority to approve salary increases in excess of \$10,000 and 15% for faculty members who are receiving salary increases funded through the Faculty Recruitment and Retention Fund.

2) Governance

a) The authority to approve the initiation of a lawsuit in the name of the University if the action is for monetary relief and the amount in controversy is less than \$250,000. (§200.5)

b) The authority to settle a lawsuit that has been filed by or against a constituent institution or the University of North Carolina, if the settlement is solely for monetary relief and the amount the University is to pay pursuant to the settlement is less than \$250,000 or, if the University is to receive a payment, the amount the University claimed is less than \$250,000. (§200.5).

c) Authority to approve the political activities of employees of the University who are candidates for or serving in public office (§300.5.1).

3) Reports

a) The authority to approve and submit any report the University or the Board of Governors is required to submit to the General Assembly, the State Board of Education or any other State agency or officer.

4) Real Property

a) Except as authorized by b) below, authority to approve leases with at least \$50,000² but less than \$350,000 annual rental for a term of up to five years, subject to approval by the Department of Administration and the Governor and Council of State (§§600.1.3 and 600.1.4[R]).

b) Authority to approve the acquisition or disposition of real property by lease without the approval of the Department of Administration, the Governor and Council of State if the lease is for a term of not more than 10 years. The President's authority may be exercised in the President's discretion on behalf of General Administration, University affiliates or the constituent institutions. (G.S. 116-31.12, and Policy §§ 600.1.3.1 and 600.1.3.1[R])

c) Authority to approve acquisition or disposition of an interest in real property, other than a lease, for an amount of at least \$50,000 but less than \$500,000 (§§600.1.4 and 600.1.4[R]).

d) Authority to approve capital improvement projects that are projected to cost \$500,000 or less. The President must provide notice of projects the president intends to approve under this provision to the Committee on Budget and Finance at least one week prior to authorizing the project. (§600.1.1).

B. The President will report all actions taken under the authority of these delegations to the appropriate committee of the Board of Governors either in writing before the next regular meeting of the Board of Governors or at the next regular meeting of the Board of Governors.

C. These delegations will remain in effect unless and until the Board of Governors rescinds them in whole or in part.

¹ The Secretary of the University is authorized to annotate the referenced policies and regulations to cross-reference these delegations.

² Note that leases with annual rent less than \$50,000 may be approved by the boards of trustees or the chancellors without further approval by the Board of Governors or the President. See Regulation §600.1.4[R].